

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	DATE: May 13, 2005
)	
Mack Allen)	DOCKET NO.: 04F-218
Member (Former))	
DC Board of Real Estate Appraisers)	
3300 Wheeler Road, SE)	
Washington, DC 20032)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of the General Counsel following a determination by its Public Information and Records Management Division, that pursuant to D.C. Official Code §1-1106.02 (2001 Edition), Mack Allen, Member (Former), DC Board of Real Estate Appraisers (Board), failed to timely file, a Financial Disclosure Statement for calendar year 2003, on or before May 15, 2004 as required by D.C. Official Code §1-1106.02, and also failed to file on or before the OCF sanctioned extended filing deadline of June 21, 2004.

By Notice of Hearing, Statement of Violations and Order of Appearance dated January 12, 2005, OCF ordered Mack Allen (hereinafter respondent), to appear at a scheduled hearing on January 21, 2005 and show cause why he should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2003, on or before June 21, 2004.

On January 21, 2005, the respondent appeared at the scheduled hearing and testified that he resigned from the Board in March or April 2004, and that he was not informed to file a Financial Disclosure Statement upon his resignation. Respondent stated that he believed his resignation relieved him of the filing requirement, which he further believed to be prospective, rather than retrospective. As a result, respondent admitted that he received notices to file from OCF, but believed they did not apply to him

IN THE MATTER OF: Mack Allen
Page 2

by virtue of his resignation from the Board. Respondent filed the required Financial Disclosure Statement at the conclusion of the hearing.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent resigned from the Board in April 2004.
2. Respondent's term on the Board expired in June 2004.
3. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2003, on or before June 21, 2004.
4. Respondent filed the required Financial Disclosure Statement on January 21, 2005.
5. Respondent provided a credible explanation for the filing delinquency because he admitted that he received notices to file from OCF, but believed they did not apply to him in view of his resignation from the Board.
6. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.

5. Respondent's explanation for the filing delinquency, in that he believed OCF's notices did not apply to him in view of his resignation from the Board, constitutes good cause for suspension of the fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter.

Date

Jean Scott Diggs
Hearing Officer

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine be hereby suspended in this matter.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order, by certified mail, on respondent on May 13, 2005.

cc: Ronald R. Collins, Director
Office of Boards and Commissions
441 – 4th Street, NW
Suite 530-S
Washington, DC 20001

Shelly Ford, HR Advisor
Office of Boards and Commissions
441 – 4th Street, NW
Suite 530-S
Washington, DC 20001

NOTICE

Pursuant to 3DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.